

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department - Khammam District - Revision Petition filed u/s 6 of A.P.S.A.L.T.R., 1959 as amended by 1/70 Sri Bandaru Nagabushanam S/o Chalamaiah, R/o H.No. 7-1-238/2, Bandarugudem (V), Manuguru (M), Khammam District against the orders of Agent to Government Khammam in OP.No.11/2001, dated 16.09.2003- Allowed - Orders - Issued.

TRIBLA WELFARE (LTR) DEPARTMENT

G.O.Ms.No.44

Dated: 07-10-2016

Read the following:-

- 1.
 2. Revision filed by Sri Bandaru Nagabushanam S/o Chalamaiah, Bandarugudem (V), Manuguru (M), Khammam District, dated 30.04.2012.
 3. The Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad orders in W.P.No.21153/2003, dated 9.8.2007.
 4. Agent to Government and the District Collector, Khammam, Letter Rc.No.F2/3399/2008, dated 04.06.2013.
 5. Govt.Lr.No.6714/TW.LTR.2/2006, dated 23.01.2016
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O R D E R:

In the reference 1st read above, Sri Bandaru Nagabushanam S/o Chalamaiah R/o H.No.7-1-238/2, Bandarugudem(V), Manuguru(M), Khammam District has filed the revision petition against the orders of the Agent to Government of Telangana/District Collector, Khammam in O.P.No.11/2001 dated 16-9-2003. The revision petitioner seeking a revision of order of the Agent to the Government of Telangana / District Collector, Khammam in O.P.No.11/2001 by order dt: 16.09.2003, claiming land to an extent of 10 gts in Sy.No.283 out of 2 acres 26 gts of Bandarugudem Village of Manguru Mandal, Khammam District.

2) The Case called on 22.01.2014 and finally on 6.02.2016 the Counsel for Revision Petitioner and Kondru Gangamma & Kondru Sammaiah were present and submitted written arguments.

3) The main grounds of the Appellant in Revision Petition among others are as given below:

- (i) It is urged by the revision petitioner that, the land was purchased from Sri Konduru Sammaiah by way of registered sale deed.
- (ii) During the pendency of the revision petition, the revision petitioner died on 23-11-2015 and consequently the L.R's of the revision petitioner were brought on record as per the order dt. 06-02-2016.
- (iii) Kondru Sammaiah and one Konduru Kanniah, who are the Tribals were the absolute owners and possessors of the Land admeasuring Ac.2.26 Gts in Sy.No.283 of Bandarugudem Village of Manuguru Mandal, Khammam District and they have sold an extent of 10 Gts of land out of the land above mentioned in Sy.No.283 in his favour by executing the Registered sale deed dated 25-07-1985.
- (iv) The revision petitioner claims that the delivery of the said land was not given in view of pendency of litigation between his vendor and Chakka Papaiah. The revision petitioner has further averred that Kondru Gangamma had filed OS.No.3/97 on the file of Agency Divisional Office Palvanha, Khammam District against the Kondru Sammaiah. However the said suit was dismissed by an order dt:15-12-1997 on the other hand Kondru Sammaiah had also filed LTR No.84/93 Manuguru alleging that the land is in possession of non tribal Chakka Papaiah and others and upon representation by Kondru Sammaiah dt:25.05.2001 for implementation of the order in LTR, the special Deputy Collector of Bhadrachalam ordered restoration of possession to the vendor of the revision petitioner on 31.05.2001. Consequently Kondru Sammaiah obtained the police protection and possession of the subject land was

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delivered and to that extent Panchanama dt:14.06.2001 was also made. In fact, on 15.06.2001 Kondru Sammaiah has reaffirmed the delivery the possession of the said land to the revision petitioner in the presence of village elders on a stamp paper of Rs.10/-.

- (v) It is further stated by the revision petitioner that after taking possession he raised the construction of 4 zinc sheets sheds with the permission of the Grampanchayat and house number 7-1-238/2 was also allotted. However, it is further claimed by the revision petitioner that Kondru Gangamma and Kondru Sammaiah have filed a petition bearing No.F1/757/2001/LTR before Agent to Government and the District Collector, Khammam against Racha Bathula Veerabhadram, Racha Bathula Narayana , Racha Bathula Sreenu, Racha Bathula Kondala Rao , Podili Sreenu, Prasad & Veeraiah and obtained directions to SHO Manguru to enforce the order filed under Sec.6A of the APSA land transfer regulation Act 1959.
- (vi) It is also affirmed by the revision petitioner that Kondru Gangamma and Kondru Sammaiah filed a petition for appointment of commission and for conducting enquiry in respect of the dispute and the Revenue Divisional Officer, Palwancha, Khammam District was appointed as an enquiry officer/RDO to enquire into the dispute. There upon the Revenue Divisional Officer, Palwancha has submitted his report on dt:20-06-2002 in detail stating that the revision petitioner is the absolute owner of the property and in his report that no non tribals have encroached or involved.
- (vii) In the said land, KondruGangamma and Kondru Sammaiah had no right as the land was already sold to the revision petitioner and panchanama was conducted by the RDO, Polvancha dt: 13-11-2001.
- (viii) The revision petitioner has assailed the order of the Agent to Government and District Collector, Khammam in OPNo.11/2001 as being inconsistent and irrelevant and contrary to the report submitted by the RDO, Paloncha and the MRO, Manuguru as well as the facts. It is also claimed by the revision petitioner that the Agent to Government and District Collector, Khammam failed to consider the sale deed in favour of the revision petitioner and fact that it was not cancelled by Kondru Sammaiah and as such the order of the Agent to Government and District Collector, Khammam is untenable, unjust and devoid of merits.
- (ix) It is further averred by the revision petitioner the orders passed by the Agent to Government and District Collector, Khammam was illegal as it was made on erroneous conclusion that revision petitioner was not given possession of the said land within 12 years from the date of sale in his favour. The revision petitioner has further urged the following grounds in support of revision.
- (x) The revision petitioner has further stated that he approached the Hon'ble High Court filing WP.No.21153/2003. The division bench by its order 09-08-2007 has directed the revision petitioner to avail alternative remedy. Then, as revision petitioner was refused on the ground of limitation where upon the revision petitioner filed a WP No.15405/2008 wherein the Hon'ble High Court directed the appellate authority to entertain the Revision Petition.
- (xi) It is further claimed by the revision petitioner that his name is reflected in the revenue records since 1994 and in Gram Panchayat records since 2001 and he has prayed for setting aside of the orders of the Agent to Government and District Collector, Khammam in OP.No.11/2001 dt:10-09-2003.

- (xii) On the other hand Kondru Sammaiah has filed his written arguments denying the claim of the revision petitioner. Kondru Sammaiah is claiming possession along with Kondru Gangamma. It is further alleged by Kondru Sammaiah that revision petitioner has no locus standi to question the possession and enjoyment by Kondru Sammaiah and Rachabathula Veerabhadram has planted the revision petitioner to create litigation. It is also stated by Kondru Sammaiah that non tribals have planted the revision petitioner, as such they are not entitled for any relief.
- (xiii) Sri Kondru Sammaiah further stated in his written arguments that the Agent to Government has elaborately detailed all the issues and passed orders in favour of Kondru Gangamma Kondru Sammaiah. Further he stated that he is not aware about the alleged sale deed dt.25.7.1985. Further it was held by the agent to Government that all the documents were created and also held that alleged transaction has benami and revision petitioner is benami and a tool in the hands of non tribals. Further he stated that the Agent to Government has ordered vide Petition No.F1/757/2001/LTR to initiate action against Rachabathula Veerabhadram, Racha Bathula Narayana, Racha Bathula Sreenu, Racha Bathula Kondala Rao , Podili Sreenu, Prasad & Veeraiah. As per the said letter the police have filed charge sheet against Rachabathula Veerabhadram, Racha Bathula Narayana, Racha Bathula Sreenu, Racha Bathula Kondala Rao , Podili Sreenu, Prasad & Veeraiah. For the offence under sec 6(A) of LTR Act in Cr.No.115/2001 dt. 27.10.2001 which was numbered as CC No.184/2005 pending before the Hon'ble Addl.Judicial Magistrate of first class / Mobile Court at Khammam.
- (xiv) Further Kondru Sammaiah stated that, revision petitioner has not shown any other material evidence nor raised any substantial points under law to set aside the well considered order by the Agent to Government. He further stated that the Panchanama dt. 7-1-2005, which was conducted as per the Hon'ble High Court Order in WVMP No.4047/2003 in WP MP No.26413/2003 in W.P.No.21153/ 2003 dt.14.12.2004 wherein the unauthorized occupants i.e., Rachabathula Veerabhadram, Racha Bathula Narayana , Racha Bathula Sreenu, Racha Bathula Kondala Rao , Podili Sreenu, Prasad & Veeraiah who are non tribals were evicted from the land. Further he stated that in the Panchanama it was categorically stated that the revision petitioner herein Bandaru Nagabushanam was not in personal possession of the land as such the present revision petitioner is not at all in possession and revision petitioner admitted that he was dispossessed from schedule property by virtue of interim orders passed in WP No.21153/2013, the said fact was admitted in the affidavit of WP NO.15405/2008 wherein categorically stated at para no.5, as such it is crystal clear that only to help non tribals i.e., Rachabathula Veerabhadram present revision is filed, as such the present revision is malafide one and only to disturb the tribals.
- (xv) Sri Kondru Sammaiah further stated that the contention of the revision petitioner that the suit bearing OS No.3/97 which was filed by Kondru Gangamma was dismissed by the agency Divisional Officer, Paloncha, but whereas the Agency Divisional Officer has no authority as per the G.O.Ms.No.406, Home(Courts A) Dept. 27-6-1990 as such the contention of the revision petitioner is not correct.
- (xvi) Further the respondent claimed that, as held by the District Collector the sale deed is not only illegal but also barred by limitation, the learned Agent to Government has categorically recorded findings on each and every aspects. Finally, he stated that since the revision petitioner was already died on 23-11-2015 and no steps are taken to bring L.Rs, even on that ground the petition is liable to be dismissed as abated and prayed to dismiss the revision petition in the interest of Justice, Since the revision petitioner is not at all in possession of the subject land and the legal representatives of Kondru Gangamma and Kondru Sammaiah are in possession of subject land.

4) The Agent to Government, Khammam, has stated that, Under Section 2 (g) of LTR provisions, it is clear that, the sale, gift, lease, mortgage of immovable properties by a tribal to non-tribal is void. In the instant case, the role of the non-tribals are existing in the matter admeasuring Ac.2.26 gts in Sy.No.283 of Banadrugudem Village of Manuguru Mandal, Khammam District. Hence the Agent to Government, Khammam do not find any reality in the Registered Deed dt.27.05.1985 having acquired the land by the petitioner herein in legal manner and that he came into possession of the land by all means of illegal acts and for which it required punishment against him to allow the non-tribals to have possession over the land in scheduled area, in contravention of Sub-section 1 of Section 3 r/w section 2(g), 3(1)a, b of LTR provision and the petitioner is existing benami as owner. Thus the agent to government, Khammam issued order in OP.No.11 of 2001, dt.16.09.2003 against the petitioner herein, Aggrieved by the order, the petitioner filed this revision petition.

5) The lower court order dt.30.05.2001 in LTR case No.84/93, and Agency Divisional Officer in OS.NO.3/1997 is of the nature that any non-tribal was found in the schedule property be evicted and penal provisions be initiated against the encroachers of the petition schedule property. But under the guise of the above orders, attempts were made to dispossess Kondru Sammaiah and Gangamma but could not be successful. When the document dated 31.05.2001 don't authorise to evict Kondru Sammaiah, i.e., from the schedule property, now the petitioner i.e., Bandaru Nagabhushanam claim that the land was handed over to him on next day on 15.06.2001. This deemed and shows the petitioner is not the real beneficiary and he is a benami for the benefit of the Rachabathula Veerabhadram, Racha Bathula Narayana, Racha Bathula Sreenu, Racha Bathula Kondala Rao, Podili Sreenu, Prasad & Veeraiah. Kondru Sammaiah alone contested the suit. Moreover, the suit filed before the Agency Divisional Officer, Palvanha was without jurisdiction, as the Agency Divisional Officers were relieved of their duties to enquire the suits in respect of matter of Agency Areas since 1990. Hence the revision petition averment is denied.

6) Under Section (54) of T.P.Act the sale shall be effective, if the delivery of possession is effected to the vendee / purchaser. In the instant case, the delivery of possession had not taken place, the registered sale deed dated 25.07.1985 is sham in law and cannot be taken into consideration for any purpose as it goes against any provisions of law. The document dated 15.06.2001 on Rs.10/- stamp paper is not registered one according to section 17 of Registration Act as it involves the transfer of right, no rights can be transferred under the unregistered document without paying stamp duty under section (8) of T.P. Act also shows the said document is a sham and no validity in the eye of law.

7) The Station House Officer, Manuguru did not honour the orders of the Hon'ble High Court in booking a 6(A) Case under LTR provisions and he was managed by the non-tribal respondents lobby. In fact Kondru Kannaiah and Sammaiah are the joint owners to the property of the schedule land, it was inherited from their ancestors long back and both . KondruGangamma and Kondru Sammaiah filed cases against each other. Later on, upon intervention of the Village Caste elders both compromised over the petition schedule property and decided to share it. The case of Lower Court vide No.84/1993 filed by Kondru Sammaiah, against a non-tribal. The orders in the case No. 84/93 was passed in favour of the Kondru Sammaiah in execution of proceedings. Both were enjoying the schedule property and both were enjoying before it was encroached upon by the revision petitioner and Rachabathula Veerabhadram, Racha Bathula Narayana , Racha Bathula Sreenu, Racha Bathula Kondala Rao , Podili Sreenu, Prasad & Veeraiah It was not constructed by the petitioner, B.Nagabhushanam and if he says that he constructed the shed it will not confirm any right as he had no title to the property. Hence the averments of the petitioner are denied.

8) The Commissioner, who has been appointed by the court, has conducted his enquiry not abiding the statutes. He is to bring the possession of the suit land into the light. The Commissioner exposed some of the documents like dt.25.7.1985 and 15.06.2001 and at the same time ignored the documents in O.S.No.99/1998. The acts of the Commissioner undoubtedly, proved that he acted in favour of the petitioner and was managed by the non-tribes. The statement made before the Commissioner, if perused along with the attester signature on the document dt.25.7.1985, and the document dt.20.06.1990, the name of B.Nagabhushanam is used as binamy and the real beneficiary is Rachabathula Veerabhadram. Hence it is denied.

9) Kondru Gangamma, Sammaiah faced a lot of troubles by non-tribals and faced hardships throughout their life, because of the ill-deeds of the respondents. This is only a piece of land that they own in the whole world and if this is taken away by the petitioner and non-tribes, they shall be put to death. The petitioner and non-tribes respondents have no right, title as such an order may be passed in favour of the. Kondru Gangamma and Kondru Sammaiah and family members by evicting the respondent and prayed to deliver possession to them in the interest of justice.

10) Kondru Veerappa had got filed an LTR case No.84/93/MGR and after death of the grandfather of the said Kannaiah and Sammaiah, the Spl.Deputy Collector(TW), Palvoncha passed orders in favour of the Kondru Sammaiah, who is the grandson of the original petitioner of LTR case. Accordingly physical possession was handed over to the legal heirs of said Veerappa viz., Kondru Sammaiah through a cover of Panchanama. The Spl.Deputy Collector(TW), Bhadrachalam also passed orders on 31.05.2001 under Sec.6(A) of APSA LTR Act 1/1959 and 1/70 for eviction of (12) persons who were in occupation the suit schedule land. The police booked Crime No.69/2001 against the encroachers and the MRI, Manuguru and Police handed over the physical possession of the said suit property on 14.06.2001 to Kondru Sammaiah under cover of panchanama. Again the said property was handed over to Bandaru Nagabhushanam by Kondru Sammaiah. Thereby B.Nagabhushanam erected (4) portions tin roofed shed house by spending Rs.60,000/- and Gram Panchayat allotted H.No.7-1-238/2, which is in possession of the petitioner.

11) Whereas .Kondru Gangamma and Sammaiah argues that in general no person will wait for such a long time of (16) years to acquire the possession of the land after the purchase. Sri Kondru Gangamma and Sammaiah also conclude that under limitation of possession “a purchase obtaining a symbolic possession may suit his vendor for actual possession, within 12 years from the date of obtaining such symbolic possession”. As such B.Nagabhushanam lost the right to get the possession of the scheduled property, as he did not claim the property within (12) years. Thus Kondru Gangamma argues that it is quite contradictory and inconsistent version of Sri B.Nagabhushanam clearly speaks of bogus nature of the document. Further Sri B.Nagabhushanam himself admits that the possession of the land is delivered to him only on 15.06.2001. Then the sanctity of pahanies showing his name in previous years possession over the land is quite ambiguous. Kondru Gangamma also further claims that Sri B.Nagabhushanam is behind all these things as such he is only a tool in the hands of the non-tribal respondents. All the documents were created by the non-tribals only. Hence after examining all the above document evidences, the Agent to Government, Khammam passed orders in OP No.11/2001 to safeguard the rights of Kondru Gangamma and Sammaiah who are actual owners as per pedigree.

12) The LTR Case No.84/93/Mgr was initiated by Special Deputy Collector (TW), Palvoncha, wherein Kondru Veerappa (tribe) was the petitioner Chakka Papaiah (Non-tribe) was respondent. The land involved in the LTR case was Ac.2.26 gts in Sy.No.283. In this case, the Lower Court ordered ejectment on 26.11.1997 of the Non-tribal respondent or whomever in possession of the immovable property covered under the LTR case and directed that the immovable property in question to restore to the tribal petitioner or his legal heirs under cover of Panchanama. The Lower Court while passing the orders in the LTR case also discussed that a suit was instituted before the Agent to Government, Khammam, which was decreed for an extent of Ac.0.10 in Sy.No.283 on 23.01.1987 in O.S.No.17/83, in favour of the Tribal Petitioner. Lower Court also directed in the above LTR case that the Prl.Munsiff passed decree on 20.08.1990 for Ac.0.10 gts in Sy.No.283 in favour of Chakka Pullaiah (who is the respondent therein). Hence denied.

13) Favourable orders were passed in favour of Kondru Sammaiah, Kannaiah and Veeraiah in OS.No.17/83, dt.23.01.1987 and in LTR Case No.84/93 favourable orders were passed in favour of Kondru Kannaiah and Sammaiah. Apart from that Kondru Gangamma has also filed O.S.No.3/97 on the file of Agency Divisional Officer, Palvoncha against the non-tribal and Kondru Sammaiah for Perpetual Injunction which was ultimately dismissed on 15.12.1997 without filing any appeal after the said dismissal order again filed O.S.No.99/98 by suppressing the fact, which is not maintainable either on law or on facts. It is false to allege that the matter was settled before the Caste Elders, Hence denied.

14) Here Kondru Gangamma was not satisfied with the report of the Mandal Revenue Officer vide Rc.No.B/1711/1993, dt.26.05.1995, hence the RDO, Palvoncha was appointed as Commission. Wherein detailed Pedigree is envisaged by him to declare as real legal heirs as discussed and orders passed in OP.No.11/2001 by the Agent to Government, Khammam. Hence the petitioner's averments are denied.

15) The Commissioner viz., Revenue Divisional Officer, Palvoncha reported that the Kondru Gangamma (old aged lady) and Sammaiah (ie, brothers son of husband of Kondru Gangamma) are nearest relatives. As per the Commissioner report it is also revealed that as per Kondru Gangamma version, Kondru Sammaiah colluded with the non-tribals and acting with the due tongue. There is every possibility of playing game/mischief with the innocent lady, taking undue advantage of non-tribals, K.Sammaiah acted upon, and focusing the petitioner (viz. B.Nagabhushanam), tribal on screen, enjoying the results of the schedule property by non-tribals. It is clear witness from the document dt.20.06.1990 that the non-tribals in order to grab the land, planned together that the tribal lady must be evicted from the scheduled property by hook or crook and that Bandaru Nagabhushanam was brought into the picture, and got registered the land in favour of him, which was executed by K.Sammaiah alone and now B.Nagabhushanam allowed respondents non-tribals over the schedule land. Even, also the non-tribals are in possession of the schedule land in contravention of the provisions under LTR. Thus, it is proved beyond any doubt; that the so called registered document is benami and B.Nagabhushanam allowed the non-tribals to take all the illegal acts to evict the tribals Kondru Gangamma and Sammaiah in this issue. Hence, the averments made by the petitioner are denied.

16) Kondru Kannaiah and Sammaiah, have sold the land under dispute to B.Nagabhushanam, for an extent of 1500 Sq.Yds on 25.07.1985 through Registered Deed without the knowledge of Kondru Gangamma and thereafter B.Nagabhushanam constructed 4 rooms with zinc shed. It was recorded in Gram Panchayat Manuguru and assigned H.No.7-1-238/2 and paid the House Tax for 2001-2002. It is also revealed from the Commissioners report that the petitioner being tribal had given these rooms to others on rental basis. Examined the issue in detail and denied.

17) The petitioner has liberty to appeal against the orders of the O.P.No.11/2001 passed by the Agent to Government, Khammam as per the directions of the Hon'ble High Court of A.P. vide WP.No.21153/2003, dt.09.08.2007. Hence the orders of OP.No.11/2001 passed by the Agent to Government, Khammam are enclosed for disposal of the case on its merits against the petitioner. The petitioner filed the W.P.No.15405/2008 and the Hon'ble High Court passed an order directing the appellant authority to entertain the petitioner on the orders passed by the Agent to Government in OP.No.11/2001 for disposal of the case on its merits.

18) Government after examination of the arguments, written arguments of revision petitioner and Kondru Gangamma and Kondru Sammaiah, parawise remarks of the Agent to Government and the District Collector, Khammam observed that ;

- I. the revision petitioner purchased the land through registered sale deed and the transaction being between the two tribals is not hit by the land transfer regulations (APSALTR) though the Sale was effected in the year 1985 the possession could not be delivered physically though in law it was delivered and it was delivered to Kondru Sammaiah alone through panchanama Dt 14.06.2001 by the revenue authorities as per the orders of the Spl Dy. Collector (T.W). Kondru Sammaiah in turn delivered the physical possession to the revision petitioner on 15.06.2001 in presence of the witnesses through sada stamp paper. And since then the revision petitioner is in possession and enjoyment of the schedule land.
- II. that the finding of the Agent to Government and the District Collector, Khammam that the registered sale transaction is a bogus one and that the consequent delivery of possession through sada stamp paper without registration is not valid is not correct. It is on record that the revision petitioner already paid substantial stamp duty and registration charges at the time of registration. As it was turned out that there were some disputes over the land the physical delivery could not be effected and after the clearance of them it was delivered to the revision petitioner. As such the delivery of possession was legal and binding on

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the Kondru Sammaiah and on those whoever claiming through him. More over the sale transaction and the delivery of possession is between the same persons. As such there was no need to again get the registration for a simple delivery. So therefore when the vendor and the vendee in one voice intended the delivery to the legitimate purchaser i.e the revision purchaser there is no illegality in the delivery of possession and not to be questioned. Moreover Kondru Sammaiah as he had already received the sale consideration at the time of registration in 1985 itself Kondru Sammaiah may have thought that it was ethical and moral and therefore delivered possession. As per section 55 of the transfer of property act also it is the bounden duty of the vendor to clear clouds over the property he sold. The section envisages disclosure of the defects in the title of the land. But the Kondru Sammaiah did not disclose any of the disputes over the land. The revision petitioner unaware of the disputes purchased the land by paying huge amounts towards consideration. That if at all the revision petitioner had filed any suit for recovery basing upon the registered sale deed of the year 1985 the plea as such as bar of 16 years to claim possession in 12 years etc as observed by the Agent to Government and the District Collector, Khammam could be taken. But as Kondru Sammaiah himself came forward voluntarily to deliver the physical possession to the revision petitioner as such there cannot be any impediment to claim as legitimate owner. In fact there are lapses on the part of Kondru Sammaiah and by delivering the possession of the land he cured the defects. But, the Agent to Government and the District Collector, Khammam failed to observe any of the mischief's of Kondru Sammaiah and simply came to a conclusion that the sale transaction was unbelievable.

- III. that the finding of the Agent to Government and the District Collector, Khammam that the revision petitioner is /was not in possession is not correct. The revision petitioner in fact constructed the sheds in the land and in physical possession and enjoyment of the land. He invested huge amounts for the construction and he let out the sheds on rent basis. There is evidence that the revision petitioner was allotted house number 7-1-238/2 by the gram panchayath and it is also the observation that the construction was by the revision petitioner. And it is also the finding by the commissioner/RDO that the construction was by the revision petitioner. In fact all the witnesses deposed before the commissioner in one voice stated that the revision petitioner alone constructed the shed in the scheduled land and has been in possession of them.
- IV. the finding of the Agent to Government and the District Collector, Khammam that the revision petitioner is not the real beneficiary and a benami of the other respondents is not correct. There is no evidence to that effect. All the while the revision petitioner has been taking all the available legal steps by facing so many hardships in the form of making round to the courts, authorities incurring huge amounts for the past 30 years he alone had been in such struggle. If he is not the real owner the revision petitioner would not embark upon such extensive work and would not take such risks. The Xerox copy of the year 1990 on which the Agent to Government and the District Collector, Khammam relied upon to come to such conclusion is not correct. The said document was not acted upon and the Agent to Government and the District Collector, Khammam should not have come to such a conclusion basing upon such an un-reliable Xerox copy.
- V. the Agent to Government and the District Collector, Khammam had failed to observe that KondruGangamma is not entitled to any right in the property in question. That the report of the RDO clearly revealed the fraud played by the Kondru Gangamma in as much as she is not the legal heir of the original pattedar to succeed the land in question. The original pattedar is Kondru Veeraiah who has adopted Kondru Venkaiah, the father of the Kondru Sammaiah. Kondru Venkaiah is the son of Kondru Lakshmaiah. Kondru Venkaiah had got two sons namely Kanniah and Sammiah. The Husband of the KondruGangamma is the natural brother of the father of Kondru Sammaiah. So it is crystal clear that KondruGangamma and her husband had no existing right over the properties of the father of Kondru Sammaiah. But Kondru Gangamma and Kondru Sammaiah after engaging themselves in war for some years realizing the ill consequences of the Handing over possession of the land to the revision petitioner joined hands to defeat the legitimate right of the revision petitioner. As Kondru Gangamma is not entitled to any share in the land in question and as she is claiming in the land as if she had any existing right and as the Kondru Sammaiah had also not brought

the said fact to the notice of the court both are guilty of hiding the facts from the notice of the lower court and thus playing fraud on the lower court. As both played fraud on the opposite parties as well as on the court they are not entitled to any relief from this Hon'ble court. Thus the Agent to Government and the District Collector, Khammam failed to observe that the Kondru Gangamma played fraud deliberately and thereby both made themselves for disentitlement of the property.

- VI. the Agent to Government and the District Collector, Khammam failed to give a finding that the revision petitioner was evicted from the schedule land by wrongly interpreting the interim order of the Hon'ble High Court passed in W.P.M.P.No 26419 of 2003 in W.P.No.2153 of 2003 Dt. 14-12-2004 though he was in possession of the schedule land by remaining in the sheds constructed by him. Thus as if the revision petitioner was ordered to be evicted by orders of the Hon'ble High court the revision petitioner was evicted high handedly by conducting panchanama and handed over possession to Kondru Gangamma and Kondru Sammaiah. In fact the order was to evict the non-tribals and not to evict if any tribals are in possession of the land in question. But as Kondru Gangamma and Kondru Sammaiah are very much influential they influenced the revenue officials and evicted the revision petitioner by flouting the order of the Hon'ble High Court.
- VII. that the Agent to Government and the District Collector, Khammam ignored all the above infirmities and came to a wrong conclusion that the revision petitioner is a benami of the other respondents. As observed above the revision petitioner had bonafidely purchased the above said land in question by paying valuable consideration. As Kondru Sammaiah did not deliver the physical possession and after the disputes were over the delivery was affected. The Kondru Sammaiah was guilty of non-disclosure of the disputes over the land. As if to set right his misdeeds Kondru Sammaiah delivered the possession. As already the revision petitioner had paid stamp duty and registration charges and as the vendor and the vendee are the same persons there is no requirement of again paying stamp duty and registration charges as the said transaction is between the same persons. The Kondru Gangamma and Kondru Sammaiah also played fraud on the lower court and here also as they misrepresented that Kondru Gangamma is also entitled to the share in the said properties as such they are not entitled to any relief.

19) Government after careful examination of the matter is hereby set aside the order of the Agent to Government and the District Collector, Khammam and Revision Petition is allowed, consequently the Agent to Government and the District Collector, Khammam is directed to deliver physical possession of the said land to the revision petitioner with immediate effect.

20) The Agent to Government and the District Collector, Khammam District shall take action accordingly. The original records received through the reference 3rd read above are returned herewith

(BY ORDERS AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

SOMESH KUMAR
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Agent to Government and the District Collector &, Khammam District.
The MRO, Manuguru, Khammam District
The RDO, Poloncha, Khammam District.

Copy to :

The Addl. Agent to Govt.& Project Director, ITDA, Bhadrachalam, Khammam Dist.
Bandaru Naga Bhushanam , S/o: Chalamaiah, R/o: H.No.7-1-238/2,
Opp: Prabhakar Rao Hospital, Bandaru Gudem, Manuguru mandal,
Khammam District.
Kondru Gangamma died LR brought on record Kondru Nanchari,
R/o: Opp: Prabhakar Rao Hospital, Bandaru Gudem,
Manuguru mandal, Khammam District.

Through the
Addl. Agent
to Govt.,
Bhadra-
chalam,
Khammam
District.

(P.T.O.)

::9::

Kondru Sammaiah died LR brought on record Kondru Bapanamma,
R/o: 7-1-54, Chapala Market, Bandaru Gudem,
Manuguru Mandal, Khammam District.
Rachabathula Veerabhadram S/o Ganataih
R/o Bandaru Gudem, Manuguru Mandal, Khammam District
Racha Bathula Narayana S/o Veerabhadram
R/o Bandaru Gudem, Manuguru Mandal, Khammam District
RachaBathula Sreenu S/o Veerabhadram
R/o Bandaru Gudem, Manuguru Mandal, Khammam District
Racha Bathula Kondala Rao S/o Veera Bhadram
R/o Bandaru Gudem, Manuguru Mandal, Khammam District
Podili Sreenu S/o Gopaiah,R/o Bandaru Gudem, Manuguru Mandal,
Khammam District
Prasad s/o not known, R/o Bandaru Gudem, Manuguru Mandal,
Khammam District
Veeraiah s/o not known, R/o Bandaru Gudem, Manuguru Mandal,
Khammam District
P.V.Krishnama Chary, Advocate, H.No.19-1-65, Line, Lambada Colony,
Bhadrachalam, Khammam District.
M/s V.Raghunatha, P.Santosh Kumar, Ch.Ramchander, Advocates
Off: 16-2-705/A/1, Residency, Near Mumtaz College, Malakpet,
Hyderabad.
T.L.K.Sharma, M.V.Venu, Advocates H.No.1-3-183/40/68/C/2,
Gandhi Nagar, Hyderabad - 500 080

Through the
Addl. Agent
to Govt.,
Bhadra-
chalam,
Khammam
District.

The P.S. to Minister, Tribal Welfare
The P.S. to Principal Secretary, Tribal Welfare Department
The Commissioner of Tribal Welfare, Telangana State, Hyderabad

//FORWARDED::BY ORDER//

SECTION OFFICER